

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Olga Bentin	Team: Squad #4	CCRB Case #: 201903222	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/02/2019 1:26 PM	Location of Incident: 455 East 146th Street	Precinct: 40	18 Mo. SOL 10/2/2020	EO SOL 5/19/2021	
Date/Time CV Reported Tue, 04/02/2019 1:26 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 04/15/2019 11:07 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Mauricio Thomas	26957	945466	SRG 2
2. POF Isabelle Delacruz	19583	944492	SRG 2

Officer(s)	Allegation	Investigator Recommendation
A.POM Mauricio Thomas	Force: Police Officer Mauricio Thomas used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POF Isabelle Delacruz	Force: Police Officer Isabelle Delacruz used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

### Case Summary

On April 15, 2019, John Rafael § 87(2)(b) contacted the CCRB by phone and filed this complaint.

On April 2, 2019, at approximately 1:26 p.m., PO Thomas Mauricio and PO Isabelle Delacruz, both from Strategic Response Group 2, stopped the vehicle occupied by § 87(2)(b) in front of 455 East 146<sup>th</sup> Street in the Bronx for tinted windows. The officers approached § 87(2)(b)'s vehicle and asked § 87(2)(b) multiple times for his driver's license. § 87(2)(b) refused to provide his license. PO Mauricio and PO Delacruz then pulled § 87(2)(b) out of the vehicle and handcuffed him (**Allegations A and B: Force, § 87(2)(g)**).

§ 87(2)(b) was arrested for § 87(2)(b)

(BR 02).

Body-worn camera footage captured the incident and is discussed in greater detail below.

### Findings and Recommendations

**Allegation (A) Force: Police Officer Thomas Mauricio used physical force against § 87(2)(b)**

**Allegation (B) Force: Police Officer Isabelle Delacruz used physical force against § 87(2)(b)**

It is undisputed that PO Mauricio and PO Delacruz used force against § 87(2)(b) to remove him from the vehicle.

The investigation has established the following facts. On April 2, 2019, at 1:26 p.m., PO Mauricio and PO Delacruz pulled § 87(2)(b) over for tinted windows. § 87(2)(b) double-parked his car. PO Mauricio and PO Delacruz exited the SUV and approached § 87(2)(b)'s car. PO Mauricio approached the front driver side. PO Delacruz approached the front passenger side. PO Delacruz then asked § 87(2)(b) to provide his driver's license and registration. § 87(2)(b) replied something to the effect of, "For what? I have no reason to give it to you." PO Delacruz again asked § 87(2)(b) to provide his documents, but § 87(2)(b) refused. PO Mauricio intervened and asked § 87(2)(b) to provide his documents. § 87(2)(b) refused and asked PO Mauricio to call a supervisor to the location.

§ 87(2)(b) stated (BR 01) that he and PO Mauricio went back-and-forth in this manner for several more minutes. At some point, PO Mauricio opened the driver's side door and grabbed § 87(2)(b)'s left wrist. PO Mauricio then pulled § 87(2)(b)'s wrist behind his back and lifted it upward, straining § 87(2)(b)'s shoulder and causing pain. PO Mauricio then lifted § 87(2)(b) out of the vehicle by his wrist. § 87(2)(b) stood outside the driver's side and PO Mauricio pushed § 87(2)(b) into the vehicle so that his head was down by the vehicle's pedals. Meanwhile, PO Delacruz walked over and grabbed § 87(2)(b)'s right hand and held it, bending his fingers and causing pain in the process. Eventually, PO Mauricio lifted § 87(2)(b) out of the vehicle and placed him in handcuffs. § 87(2)(b) denied resisting PO Mauricio or PO Delacruz, but acknowledged screaming, because he was in pain. PO Delacruz and PO Mauricio yelled, "Stop resisting!" during the struggle. § 87(2)(b) told the officers that he was not resisting.

§ 87(2)(b)'s medical records from § 87(2)(b) (BR 03) document that § 87(2)(b) was brought to the hospital complaining of pain to his left shoulder as a result of being arrested. X-rays of § 87(2)(b)'s left shoulder, humerus, elbow, and forearm returned negative results for fractures or malalignment.

§ 87(2)(g)

PO Mauricio's BWC recording (BR 04), between 1:12 and 2:43 minutes, shows PO Mauricio asking § 87(2)(b) several times for his driver's license and the doctor's note for the front tinted window. § 87(2)(b) refuses and says to PO Mauricio, "No, you are not getting my license. I have done nothing wrong. There is no crime suspected," and, "I have done nothing wrong. You can ask me nothing about this [as he points to the front windshield window]." § 87(2)(b) continues to argue with PO Mauricio and refuses to provide his driver's license. Between 2:46 and 3:35 minutes, PO Mauricio opens the driver side door of § 87(2)(b)'s vehicle and says, "Sir, you have to step out of the vehicle," as he takes § 87(2)(b) by his left wrist. § 87(2)(b) replies, "For what?" and does not exit. PO Mauricio then grabs § 87(2)(b)'s left bicep and twists it behind § 87(2)(b)'s back. Within a few seconds, § 87(2)(b)'s arm is behind his back and his chest is on the driver's seat. It is not clear how he ends up like this, but it does not appear that he is pulled out of the vehicle and then thrown back in. § 87(2)(b) immediately starts screaming when he is grabbed, "My arm, my arm, my arm is broken." He further states that he has a torn rotator cuff. Several other officers become involved in the struggle. § 87(2)(b) screams, "My fingers, you're breaking my fingers." The officers tell § 87(2)(b) to relax. The camera captures PO Mauricio holding § 87(2)(b)'s left hand behind his back by the shoulder blades. It appears that PO Mauricio squeezes the finger base of § 87(2)(b)'s left hand. The camera does not capture § 87(2)(b)'s right hand, but it appears to be behind his back as well. At 3:38 minutes, § 87(2)(b) is stood up outside the driver's side door of his vehicle and placed in handcuffs. He is still shouting that his arm hurts. PO Mauricio walks § 87(2)(b) over to the police vehicle, and places him in the back seat.

PO Delacruz's BWC recording (BR 05) captures the same interaction as described above.

PO Mauricio and PO Delacruz provided generally consistent testimonies with that of § 87(2)(b) and their BWC recordings, with the following exceptions. When PO Mauricio grabbed and pulled § 87(2)(b) out of the vehicle, PO Mauricio (BR 06) stated that § 87(2)(b) flailed his arms, pushed himself away from PO Mauricio, and yelled aloud that his uncle was a Sergeant at the 43<sup>rd</sup> Precinct. PO Delacruz (BR 07) also testified that when PO Mauricio tried to remove § 87(2)(b) for the vehicle, § 87(2)(b) yelled that PO Mauricio was breaking his arms, cursed, and flailed his arms.

PO Mauricio's (BR 08) and PO Delacruz's (BR 09) Threat, Resistance, and Injury Reports are consistent with their testimonies.

The Investigating Supervisor's Assessment Report (BR 10) prepared by Capt. Julio Delgado is generally consistent with PO Delgado's and PO Mauricio's accounts. Capt. Delgado concluded that PO Mauricio and PO Delacruz acted within the scope of their assignment and used minimal force necessary to remove and restrain § 87(2)(b).

Under NY CLS Veh & Tr § 375 (BR 14), "no person shall operate any motor vehicle upon any public highway, road or street, the front windshield of which is composed of, covered by or treated with any material which has a light transmittance of less than seventy percent unless such materials are limited to the uppermost six inches of the windshield."

Officers who conduct routine traffic stops may exercise their discretion to require occupants to exit a vehicle once a lawful stop has been effected, out of concern for safety and without particularized suspicion. People v. Isaac, 107A.D. 3d 1055 (2013) (BR 11). A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act. NY Penal Law § 195.05

(BR 12). An officer must use only that force reasonably necessary to gain control of a subject or to effect an arrest. Patrol Guide Procedure 221-01 (BR 13)

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 15).
- PO Thomas Mauricio has been a member-of-service for 11 years and has been a subject in six CCRB complaints and nine allegations, of which one was substantiated:
  - Case no. 201800230 involved a substantiated allegation of abuse of authority (property damage). The Board recommended Command Level 1 Instructions and the NYPD imposed Instructions.
  - § 87(2)(g)
- PO Isabelle Delacruz has been a member-of-service for 12 years and has been a subject in one other CCRB complaint and one allegation, which was not substantiated. ■

§ 87(2)(g)

#### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- A FOIL request was sent to the NYC Comptroller on October 8, 2019, for any Notice of Claim filed in regard to this incident. The results of the request will be added to the case file upon receipt.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of conviction in New York City (BR 16).

Squad No.: 4

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date